

SPECIAL OPEN MEETING T-00000D-04-0582/RT-000



0000103340

1 BEFORE THE ARIZONA CORPORATION COMMISSION

2

3 IN THE MATTER OF THE) DOCKET NO.
4 INVESTIGATION INTO THE BILLING) T-00000D-04-0582
5 PRACTICES OF TELECOMMUNICATIONS)
6 PROVIDERS IN ARIZONA.)

6 IN THE MATTER OF DISSEMINATION OF) DOCKET NO.
7 INDIVIDUAL CUSTOMER PROPRIETARY) RT-00000J-02-0066
8 NETWORK INFORMATION BY)
9 TELECOMMUNICATIONS CARRIERS.) **SPECIAL OPEN MEETING**
10) **PUBLIC COMMENT**

9

10

11

12 At: Sierra Vista, Arizona

13 Date: December 16, 2004

14 Filed: JAN -6 2005

15

16

17 **REPORTER'S TRANSCRIPT OF PROCEEDINGS**

18

19

20 **ARIZONA REPORTING SERVICES, INC.**
21 Court Reporting
22 Suite Three
23 2627 North Third Street
24 Phoenix, Arizona 85004-1103

25 By: MICHELE E. BALMER, RPR
Certified Court Reporter
Certificate No. 50489

24 Prepared for:

25 ACC

ORIGINAL

1 BE IT REMEMBERED that a Special Open
2 Meeting was held at the Oscar Yrun Community Center,
3 3020 Tacoma, Sierra Vista, Arizona, commencing at
4 1:10 p.m. on the 16th day of December, 2004.

5

6 BEFORE: WILLIAM A. MUNDELL, Commissioner
7 MIKE GLEASON, Commissioner
8 KRISTIN MAYES, Commissioner

9

10

MICHELE E. BALMER
Certified Court Reporter
Certificate No. 50489

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 COM. MUNDELL: Let's go ahead and go on the
2 record, and let's get started.

3 This is the time set for a Special Open Meeting
4 of the Arizona Corporation Commission. And the purpose
5 of this meeting is to hear from the public on two very
6 important telecommunications issues facing the
7 Corporation Commission.

8 The first one is our investigation into the
9 billing practices of telecommunications providers in
10 Arizona. Put simply, the Commission is -- I'll speak
11 for myself. Put simply, I am concerned that phone
12 companies in Arizona, both wired and wireless
13 companies, are adding charges to customers' bills and
14 implying that they are required by government either as
15 a tax or a fee. In many cases, they are not.

16 And we are conducting these hearings throughout
17 the state to listen to the public and gather
18 information to determine when, and if, we start a
19 formal rulemaking process.

20 We obviously -- or I believe we want vigorous
21 competition in the State of Arizona when it comes to
22 providing telecommunications services, but we want
23 honest competition. Don't tell someone their bill is
24 going to be \$29.99, and then when they get their first
25 bill in the mail it's \$45. Just tell them it's going

1 to be \$45 after we add this fee and that fee. And also
2 explain these are mandated and required by either the
3 federal government or state government or the
4 Corporation Commission or the FCC, but don't imply that
5 fees that are not required are somehow a fee or a tax
6 is required.

7 Secondly, the purpose of this meeting is to
8 gather public comment on what are called privacy
9 issues. We believe that -- and we passed rules because
10 we were concerned that some of the most basic private
11 information in a modern industrial society was being
12 disseminated by phone companies. I'm not just talking
13 about your name, your address, and your phone number,
14 but who you call, how often you call, and when you
15 call. And they wanted to use that information for
16 telemarketing purposes.

17 Again, the Commission felt that customers ought
18 to have the ability to (a) know that that's occurring;
19 and, secondly, to stop it if they did not want their
20 very private information disseminated.

21 Normally, that information, in order to gather
22 it, law enforcement has to, in fact, get a search
23 warrant signed by a judge in order to gather that
24 information. So we were very concerned about that.
25 This process on the privacy information started, I

1 think, back in 2001. And we started a formal
2 rulemaking process trying to balance the first
3 amendment aspects, constitutional aspects of commercial
4 speech versus protecting consumers, and we have passed
5 rules to do that.

6 I'll open it up to Commissioner Gleason for any
7 opening statement, and then Commissioner Mayes.

8 COM. GLEASON: The explanation of bills is --
9 there's no doubt that there should be a good
10 explanation of bills. I think some of the phone
11 companies have started it and have made some progress
12 on that area.

13 One of the models that we have come up with is
14 there's a small telephone company in Kerrville, Texas,
15 of all places, and they have on their website a very
16 detailed explanation of bills and exactly what each
17 category is, where it comes from, the reason for it,
18 why it is there.

19 But one of the illustrations I often use is
20 that my telephone bill is typically about 40 bucks.
21 \$13 of that is the plain old line. I have \$6 for an
22 answering service, which gets it up to about \$19, \$20,
23 and the rest of it is taxes. The rest of it is implied
24 by a tax of one government or another.

25 Now, the Corporation Commission has to take

1 part of that, but we charge 49 cents of that \$20.

2 So there is some progress being made in this
3 area. I think there can be more. And I foresee that a
4 website presentation would be an advantage, because you
5 can get more detailed information than you can put on a
6 bill. I think my telephone bill now is about four
7 pages to start with for things. So we can make some
8 progress in that.

9 The CPNI, the privacy information is -- again,
10 we really need to look at that and see what information
11 we will allow telephone companies to divulge with
12 somebody's permission and without their permission.
13 And we get into -- it gets complicated, but there's an
14 opt-in and an opt-out provision in this thing where you
15 can opt-in to let your information go or you can
16 opt-out not to get it. And these are the things that
17 we're struggling with in this area.

18 COM. MUNDELL: Thank you, Commissioner Gleason.
19 Commissioner Mayes.

20 COM. MAYES: Thank you, Commissioner Mundell.
21 It is good to be here. I wish we had had a better
22 turnout, but it's still important for us to be here.
23 And I appreciate the members of the fourth estate being
24 here, and hopefully they can get the word out about
25 what we're doing.

1 And because, you know, as Commissioner Mundell
2 said, we are going to be taking comment on this issue
3 for several months, probably, going forward. So if
4 folks have any comment they would like to offer the
5 Commission, they can write to us at 1200 West
6 Washington Avenue in Phoenix, 85007. They can also
7 e-mail us. My e-mail address is kmayes@cc.state.az.us,
8 or they can call us at 1 (800) 222-7000 and let us know
9 what they're thinking about these issues.

10 Commissioner Mundell and Commissioner Gleason
11 did a good job of sort of broadly discussing the issue
12 that we're looking at. There's one example that I
13 wanted to talk about in terms of these fees and
14 surcharges that are cropping up on people's bills like
15 weeds it seems. It really does seem like they're
16 popping up like weeds everywhere.

17 And that is that recently Qwest added a \$2.99
18 charge on their long distance customers. And they did
19 this after essentially having drawn people into their
20 long distance plan by promising no monthly fees. And
21 then, six months later, lo and behold, people starting
22 seeing this \$2.99 charge on their bill.

23 One component of it, a 99 cent fee, was called
24 an interstate services fee, and \$2 of the \$2.99 was a
25 monthly recurring charge, neither of which were

1 mandated by any government agency. But the \$2.99
2 essentially was a revenue generator for Qwest, and it
3 was a cash cow for Qwest and a way for them to improve
4 their bottom line.

5 They implemented this fee, the \$2.99 fee,
6 without asking for the Corporation Commission's
7 approval. The Commission does have a rule that says
8 that any time a telecommunications provider wants to
9 raise their rates, they must come to the ACC for
10 approval. It's called A.A.C. R14-2-1110.

11 Qwest has argued that they didn't have to come
12 to the Commission under our rules. That these charges
13 really related to interstate phone calls and,
14 therefore, they were governed by the FCC.

15 I disagree. I think it was an arrogant
16 decision on the part of Qwest. I think it was
17 potentially in violation of our rules, and I think the
18 Commission needs to investigate this. And, in fact, I
19 know that our Staff is looking at whether or not they
20 want to bring what's called an order to show cause
21 against Qwest for the \$2.99 fee, which would
22 essentially require the company to come to the
23 Commission and prove why they didn't have to get our
24 permission under that rule.

25 I asked recently the CEO of Qwest -- the

1 national CEO of Qwest, Dick Notebaert, came to Phoenix
2 after I asked him to come and talk to all of us about
3 this. And I asked him to tell me why it wasn't
4 essentially a bait and switch scam. He argued it
5 wasn't. I think a lot of folks, you know, believe that
6 it was bait and switch, and I think it comes about as
7 close to bait and switch as you can get.

8 And so, you know, these are the kinds of fees
9 we're looking at where they're the kinds of fees that
10 we're hearing about from people. I know I got
11 literally dozens of phone calls and letters and
12 e-mails. I know my fellow Commissioners did as well
13 after that \$2.99 fee was implemented.

14 So I think I will end it there. And, again, I
15 would just like to say that it's been great to be here.
16 We were here just last night on the Bella Vista Water
17 matter. It was great to be with the people of Sierra
18 Vista then, and it's good to be here today.

19 COM. MUNDELL: Thank you, Commissioner Mayes.
20 You did make me think of one other example. One of the
21 other telecommunications companies added a charge to
22 customers' bills and entitled it property tax
23 surcharge.

24 Now, I would think that it's reasonable to
25 conclude that the average person would think that that

1 is a tax required by some level of government. It was
2 not. It was not required. Again, it was a way to
3 generate income for that telecommunications company.

4 So it would seem to me that, again, as I said
5 earlier, we all want competition. We want honest
6 competition. We want customers to be able to make a
7 knowing, intelligent decision when they decide to
8 purchase services from one company or another,
9 telecommunications company. So when they go in there
10 to sign a contract, they know their bill is going to be
11 \$29.99, plus applicable taxes that are required by
12 government, and not some other amount with charges that
13 are made up and placed on the bill with the implication
14 that they are either a tax or a fee required by some
15 level of government.

16 So I thought of that example, Commissioner
17 Mayes, when you were citing your example, the property
18 tax surcharge.

19 COM. MAYES: Yeah. And I would just add to
20 that, I think, you know, some people, I'm sure, look at
21 what we're doing and say, well, you know, why are they
22 making such a big deal about \$2.99 or \$5 or a \$3
23 property tax surcharge.

24 We're making a big deal out of it because these
25 things add up. And for people who are living on fixed

1 incomes or people who don't have a lot of income coming
2 in, you know, \$2.99 every month on top of increasing
3 natural gas rates, increasing electricity rates,
4 increasing gasoline prices, can be significant.

5 So in addition to the fundamental fairness
6 issue and people's frustrations over these kinds of
7 things, there is the issue of the rising costs of
8 utilities across the board. And that's why we're
9 taking such a close look at it and taking it so
10 seriously.

11 COM. MUNDELL: Why don't we -- unless I hear
12 differently, a recommendation from my Commissioners, I
13 thought we would stand in recess for maybe 10 minutes,
14 and then I'll gavel the meeting back to order and we'll
15 proceed accordingly at that time. So we'll stand at
16 recess for 10 minutes.

17 (A recess was taken from 1:26 p.m. to
18 1:34 p.m.)

19 COM. MUNDELL: Let's go ahead and go back on
20 the record. We were in recess for 10 minutes. I'll go
21 ahead and call this matter back to order.

22 And unless my fellow Commissioners have any
23 other comments they would like to make, it's great to
24 be down here. We always try to get out of Phoenix as
25 often as we can to go to communities that are impacted

1 by our decisions.

2 So we'll stand adjourned. Thank you all for
3 coming.

4 (The Special Open Meeting concluded at
5 1:35 p.m.)

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)
4
5

6 I, MICHELE E. BALMER, Certified Court Reporter
7 No. 50489 for the State of Arizona, do hereby certify
8 that the foregoing printed pages constitute a full,
9 true and accurate transcript of the proceedings had in
10 the foregoing matter, all done to the best of my skill
11 and ability.
12

13 WITNESS my hand this 31st day of December,
14 2004.
15
16

17 Michele E. Balmer
18 MICHELE E. BALMER
19 Certified Court Reporter
20 Certificate No. 50489
21
22
23
24
25